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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,486

12/05/2003

Frederick Allan Buck

19670

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23556 7590 03/09/2007  
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EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/729,486

Applicant(s)

BUCK ET AL.

Examiner

Timothy R. Waggoner

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-19 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-19, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed with respect to claim 11 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to combine Julius with Fillmore. Using the hinge system taught by Fillmore would have been an obvious choice to provide the functionality of holding the lid in an open position as it is merely one example of this well known system, cited in this action are a number of other patents utilizing similar systems. As stated by applicant representative and as seen in other wet wipe and sheet dispensers it is known in the art to have a lid that, stays in an open position. The system disclosed by Tabuchi and Fillmore are examples of two of many ways of performing the same task and provide the same advantage of holding a lid in an open position. For the foregoing reasons claim 11 stands rejected.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Julius USPN 6,431,360 in view of Fillmore USPN 4,778,071 and further modified by Tabuchi USPN 6,702,109.

Julius discloses a wet wipe package comprising:

(Re claim 11) "a flexible pouch" (42 figure 3A). "a rigid flip top comprising a lid attached to a flange ... the flange forming a dispensing opening"" (54,48 figure 3A). "hinge comprising a living hinge" (56 figure 5).

Julius does not disclose that the living hinge comprises a central strap and two toggle straps or that there is a removable portion surrounded by the flange.

Fillmore teaches a living hinge comprising a central strap and two toggle straps.

Tabuchi teaches a removable portion surrounded by the flange.

It would be obvious to one skilled in the art to modify the dispenser of Julius to have a living hinge which has a central strap and two toggle straps and to have a removable portion surrounded by the flange because the central strap and toggle strap act to hold the dispenser lid in an open position and the removable portion prevents the loss of moisture contained in the pouch..

(Re claim 12) "Moving the lid ... requires the force to be over come" (figure 7, Fillmore).

(Re claim 13) "a pair of channels ...at a first end ... at a second end" (32,33 figure 7, Fillmore).

(Re claim 19) "wherein the lid has a first rigidity and the flange has a second rigidity ... first ...greater ... second", The dispensing lid of Julius has a great cross-sectional area then its flange and since both are made of the same material the lid of Julius would be more rigid then the flange.

(Re claim 27) "pair of toggle straps span a greater distance then the central strap" (31,30 figure 7, Fillmore).

(Re claim 28) "toggle straps are under compression when the lid is closed" (31 figure 5, Fillmore). "toggle straps are under increased tension as the lid is opened until reaching the second position" (abstract, Fillmore) the abstract states that the strap causes flexing when rotating between the open and closed position which means it would be under increased tension.

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julius as modified by Tabuchi and Fillmore. With respect to claims 14-18, Julius as modified by Tabuchi and Fillmore does not disclose specific values for a thickness dimension. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to arrive at the thickness values claimed by applicant in claims 14-18.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPNs 4,047,495, 5,368,176, 4,854,473, and 5,540,343 are a number of examples of toggle hinge systems.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRW

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER